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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,389	10/25/2005	Kazuhito Hayakawa	061069-0317233	2767
909 7590 04/03/2008 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER FREID, RUSSELL WARREN				
ART UNIT 2128		PAPER NUMBER		
MAIL DATE 04/03/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/554,389

Applicant(s)

HAYAKAWA ET AL.

Examiner

Russell Frejd

Art Unit

2128

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 5-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Examination of Application #10/554,389

1. Claims 1-12 of application 10/554,389, filed on 25-October-2005 are pending in the application. This communication is in response to the amendment received 31-December-2007. Claim 13 is canceled. The examiner respectfully maintains the 102 rejection in reconsideration of the same reference that was applied in the first office action.

Claim Rejections under 35 U.S.C. § 112, 2nd Paragraph

2. Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being vague and indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following is a list of the specific rejections:

Claim 1	line 11	the phrase "generating/renewing production/state" is vague.
Claim 4	line 7	the phrase "wherein the method of designing an optical system comprising" is vague.
	line 10	the phrase "generating a production-state sets a value in" is vague.

Claim Rejections under 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3.1 Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Yabe, USP 6,895,334.

3.2 Yabe discloses:

Claim 1: an input section; an output section; a memory section [all at col. 8, Ins. 27-30]; setting an initial-value that sets a value of an optical parameter in a design state where a production error has not been taken into consideration [col. 4, lines 50-55], generating/renewing, where an optical parameter in a production state is generated by adding a production error to the optical parameter in the design state, or renewing the production error of the optical parameter in an existing production state is renewed [col. 4, lines 55-62], generating an evaluation function which generates the evaluation function [col. 4, line 67], and performing optimization by determining an optimal value of the optical parameter by optimizing the evaluation function [col. 4, lines 62-65].

Claim 4: an input section; an output section; a memory section [all at col. 8, Ins. 27-30]; setting an initial-value which sets up a value in a design state as a value of an optical parameter [col. 4, lines 50-55], generating a production state which sets up a value in the production state as a value of an optical parameter [col. 4, lines 55-62]; generating an evaluation function which makes an evaluation function in which a production state is a variable [col. 4, line 67], and performing optimization which optimizes the evaluation function [col. 4, lines 62-65], wherein the value in the production state is set up by adding a predetermined amount of production error to the value in the design state [col. 4, lines 54-55].

Claim Objections

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4. Claims 2, 3, and 5-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response Guidelines

5. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

5.1 Any response to the Examiner in regard to this non-final action should be

directed to: Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, **or** the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279. Inquires of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist (571) 272-2100.

mailed to: Commissioner of Patents and Trademarks
P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to: (571) 273-8300

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

Date: 29-March-2008

/Russell Frejd/
Primary Examiner AU 2128